

[CUSTODIAN AND] INVESTMENT AGREEMENT
BETWEEN HCST BOARD AND MUNICIPALITY

This Agreement is made this _____ day of _____, 2012, by and between the Health Care Security Trust board of trustees (“HCST Board”), established pursuant to Massachusetts General Laws (“M.G.L.”) Chapter 29D, Section 4, acting as the trustee and administrator of the State Retiree Benefits Trust Fund (“SRBT Fund”) established under the provisions of M.G.L. Chapter 32A, Section 24, having an address of One Ashburton Place, Room 901, Boston, Massachusetts 02108, and the City/Town of _____ (the “Municipality”), a body corporate and politic of the Commonwealth of Massachusetts, having an address at _____.

Preliminary Statement

M.G.L. Chapter 32B, Section 20, as amended by Chapter 68, Section 57 of the Acts of 2011 (“Section 20”), authorizes municipalities that accept such Section to establish an Other Post-Employment Benefits Liability Trust Fund (“OPEB Trust Fund”) and to appropriate amounts to be credited to such OPEB Trust Fund. Pursuant to Section 20, the Municipality, by vote of [its City Council/and approval of the Mayor/Town Meeting] (the “Vote”), a certified copy of which is attached hereto as **Exhibit A**, has established an OPEB Trust Fund, has initially appropriated the amount of \$_____ to be credited to the OPEB Trust Fund, and has designated the [HCST Board] as custodian of the OPEB Trust Fund.

Accordingly, the parties agree as follows:

1. The Municipality hereby represents and warrants that, by virtue of the Vote, it has accepted Section 20, has established the OPEB Trust Fund, has initially appropriated \$_____ for credit to the OPEB Trust Fund, and has designated the HCST Board as custodian of the OPEB Trust Fund.

2. The HCST Board hereby accepts the designation as custodian of the Municipality's OPEB Trust Fund.
3. The HCST Board and the Municipality acknowledge that, pursuant to M.G.L. Chapter 29D, Section 4, the HCST Board has voted to invest the SRBT Fund with the Pension Reserves Investment Trust Fund ("the PRIT Fund"), which is administered by the Pension Reserves Investment Management Board ("PRIM Board"), established pursuant to M.G.L. Chapter 32, Section 23(2A).
4. The Municipality hereby directs the HCST Board to invest the OPEB Trust Fund in the SRBT Fund as a "Purchasing System" in the PRIT Fund (as set forth below), and the HCST Board hereby authorizes participation by the Municipality in the SRBT Fund and approves such investment. The Municipality acknowledges that its OPEB Trust Fund will be commingled with assets of other participants in the SRBT Fund. The Municipality will provide the HCST Board and/or the PRIM Board with such information as the HCST Board or PRIM Board may request from time to time to enable them to perform their responsibilities under this Agreement.
5. The HCST Board and the PRIM Board, acting on behalf of the PRIT Fund, have entered into an Amended and Restated Investment Services Agreement, dated as of October 1, 2011, attached as **Exhibit B** hereto (the "Investment Services Agreement"), pursuant to which the SRBT Fund is invested in the PRIT Fund General Allocation Account ("GAA") as a "Purchasing System" under the terms of the Pension Reserves Investment Management Board Operating Trust, a copy of which is attached as **Exhibit C** (the "PRIM Board Operating Trust"). The Municipality hereby acknowledges that it has reviewed such materials as it deems necessary and appropriate to understand the GAA and the PRIT Fund.
6. The Municipality acknowledges that, pursuant to M.G.L. Chapter 29D, Section 4, the HCST Board, acting on behalf of the SRBT Fund, and the PRIM Board have

entered into an Administrative Services Agreement, dated as of October 1, 2011, attached hereto as **Exhibit D** (the “PRIM Administration Agreement”), pursuant to which the HCST Board is utilizing the existing resources and staff of the PRIM Board to provide the administrative services described therein to the SRBT Fund and those municipalities and other political subdivisions, agencies and authorities of the Commonwealth which may participate in the SRBT Fund. The PRIM Board shall have responsibility for the valuation of assets in accordance with the provisions of Article 6 of the PRIM Board Operating Trust and for reporting to the Municipality regarding the OPEB Trust Fund.

7. The PRIM Board is paid a Service Fee and Out-of-Pocket Expenses for the services provided in accordance with the PRIM Administration Agreement, which fees are transferred directly to the PRIM Board from the SRBT Fund’s cash account. The Municipality will be responsible for its pro rata share of such fees. The Municipality understands the respective rights and obligations of the PRIM Board, the HCST Board and the Municipality with respect to the OPEB Trust Fund deposited as part of the SRBT Fund in the GAA of the PRIT Fund.
8. The cash and assets of the OPEB Trust Fund will be held as part of the SRBT Fund by a custodian designated from time to time by the PRIM Board. The current custodian is The Bank of New York Mellon Trust Company, N.A.. The PRIM Board will direct the Municipality with respect to investing and withdrawing assets in the PRIT Fund GAA.
9. The Municipality acknowledges that it is obligated, as the fiduciary for the OPEB Trust Fund, to review and evaluate the suitability of the investment of the OPEB Trust Fund in the PRIT Fund GAA. The HCST Board is responsible for reviewing and evaluating the investment of the SRBT Fund in the PRIT Fund GAA. The HCST Board will give written notice to the Municipality prior to withdrawing the SRBT Fund from the PRIT Fund GAA, and of any decision to reinvest the SRBT

Fund in different investment vehicles. In such event, the HCST Board will require the Municipality to confirm that it wants to continue to invest its OPEB Trust Fund with the SRBT Fund in such new investment vehicles.

10. The Municipality acknowledges that its participation in the SRBT Fund will be in accordance with the HCST Board Operating Trust Agreement attached as **Exhibit E** and the procedures and criteria adopted by the HCST Board and attached hereto as **Exhibit F**, as they may be amended from time to time, and in accordance with the PRIM Board Operating Trust, the Investment Services Agreement and the PRIM Administration Agreement.
11. If applicable, the Municipality intends to appropriate [_____] in each fiscal year hereafter to fund the OPEB Trust Fund, with a goal of funding [_____] of its liabilities for other post-employment benefits by the year 2 _ _ _.
12. The Municipality shall annually provide the HCST Board with a copy of the summary that it is required to provide to the public employee retirement administration commission pursuant to Section 20 concerning its other post-employment benefits cost and obligations and related information, as required by Government Accounting Standards Board standard 45.
13. The Municipality hereby represents that the persons listed below are duly authorized to act on behalf of the Municipality with respect to the OPEB Trust Fund and to execute, deliver, and perform this Agreement, that this Agreement is a valid and binding obligation, enforceable against the Municipality in accordance with its terms, and that the terms of this Agreement do not violate any obligation by which the Municipality is bound by contract, operation of law or otherwise:

[INSERT LIST OF AUTHORIZED PERSONS]

14. The Municipality shall immediately notify the HCST Board in writing of any change in the persons authorized hereunder to act on behalf of the Municipality,

such notice to be accompanied by a certificate of the Clerk of the Municipality, certifying that the persons named are so authorized.

15. Neither the HCST Board nor any of its members, officers, employees or agents, make any representations or warranties, express or implied, that any level of performance or investment results will be achieved by the OPEB Trust Fund, the SRBT Fund or the PRIT Fund GAA, or that the OPEB Trust Fund, the SRBT Fund or the PRIT Fund GAA will perform comparably with any standard or index.
16. The HCST Board shall not be liable with respect to its services hereunder except for any loss attributable to the HCST Board's gross negligence or willful misfeasance. The HCST Board shall not be liable for any act or omission of the PRIM Board, any custodian or any broker or dealer. Without limiting the foregoing, the HCST Board does not assume responsibility for the accuracy of information furnished to it by Municipality, the PRIM Board, any custodian, any broker or dealer, or by any person on whom it reasonably relies. The Municipality shall indemnify and hold harmless the HCST Board, its officers, members, employees and agents for any loss, liability, cost, damage or expense, including reasonable attorneys' fees and costs, that does not directly result from the HCST Board's gross negligence or willful misfeasance. Nothing contained in this Agreement shall, however, constitute a waiver or limitation of any rights which the Municipality may have under any applicable law.
17. This Agreement may be terminated by the Municipality or the HCST Board at the end of any month following 30 days' prior written notice from the terminating party to the other party. Upon termination, the Municipality is responsible for issuing written instructions regarding assets in the OPEB Trust Fund. Fees will be prorated to the date of termination.
18. Any notices hereunder shall be in writing, duly signed by the party giving such notice, and shall be effective when received by the party to whom addressed at the

address set forth above, or to such other address as a party may designate in writing to the other party.

19. This Agreement shall be governed by the laws of Massachusetts. If any provision of this Agreement is deemed invalid or unenforceable by appropriate authority, this Agreement shall continue as if such provision were omitted, unless such omission would substantially impair the rights or benefits of either party.
20. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the Municipality and the HCST Board with respect to the subject matter hereof and supersedes all prior agreements, negotiation, representations and proposals, whether written or oral, and may be amended only in writing signed by both parties. This Agreement is binding upon the Municipality and the HCST Board and their respective successors.

IN WITNESS WHEREOF, the HCST Board and the Municipality have caused this Agreement to be executed as of the date first above written.

HEALTH CARE SECURITY TRUST BOARD OF
TRUSTEES

By: _____
Gregory R. Mennis, Chair

MUNICIPALITY

By: _____

ATTACHMENT—Opinion of Counsel for Municipality

EXHIBITS

EXHIBIT A: Vote of Municipality

EXHIBIT B: Investment Services Agreement

EXHIBIT C: PRIM Board Operating Trust

EXHIBIT D: PRIM Administration Agreement

EXHIBIT E: HCST Board Operating Trust Agreement

EXHIBIT F: HCST Board Policies and Procedures

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